

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 1431 of 2000

Between:

Organisation for Rural and Education Development, Regd.No.153/89, Sachivalaya
Nagar, Vanasthalipuram, Hyderabad, rep.by Chairman sri K.Vijaya Satyamand, S/o.
Raja Rao.

..... PETITIONER

AND

- 1 The Chairman ,Dist.Rural Development Agency,
Medak at Sangareddy.
- 2 The Project Director, Dist.Rural Development Agency,
Medak at Sangareddy.
- 3 The Project Director,Drought Prone Area Progreme,
Medak at Sangareddy.
- 4 Govt.of India, rep.by it's secretary,
Ministry of Rural Areas and Employment Department of Waste

Lands Development, NBO Buildings,G-Wing, Nariman Bhawan,

New Delhi-110 011.

- 5 The Member Secretary,The National Waste Lands Development

Board,Govt. of India ,N.B.O. BUILDINGS,G-Wing, Nariman

Bhawan, New-Delhi-110 011.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the
circumstances stated in the Affidavit filed herein the High Court will be pleased to
issue an appropriate writ or direction more particularly in the nature of writ of
Mandamus declaring the proceedings No.DPAP/3466/98 ,DT.6.11.1998 of the
Dist.Collector and Chairman,DRDA.Medak at Sangareddy as illegal, void and
without jurisdiction and to pass such other order or orders as the Court may deem fit.

Counsel for the Petitioner:MR.RAMA RAO GANTA

Counsel for the Respondents 1 to 3 : G.P.for Irrigation.

For the respondent Nos.4 & 5:Mr.Ramakrishna Rao, Additional Standing Counsel for Central Government.

The Court made the following O R D E R :

None appears for the petitioner. Heard learned Government Pleader for Irrigation appearing for respondents 1 to 3.

It is stated in the affidavit filed in support of the writ petition that the Government of India, Ministry of Rural Areas and Employment, Department of Waste Land Development, New Delhi, with an object of protecting the natural resources with the participation of local people, particularly for conservation of water table and for enhancement of the productivity and income of the people in rural areas taken up a programme known as Integrated Waste Lands Development Programme (IWDP) under the Watershed Development Project. The Government of India sanctioned an IWDP for Medak District covering Siddipet and Kondapaka Mandals upon the proposals submitted by the District Rural Development Agency (DRDA), Medak District. The Collector of the District, who is the Chairman of the DRDA appointed the petitioner as the Project Implementing Agency (PIA) to implement the IWDP at Kondapaka Mandal after obtaining approval of the Department of Waste Land Development, Government of India. The petitioner has executed a Memorandum of Understanding (MOU), Dated 01-06-1996 in favour of the DRDA and the petitioner was entrusted with 14 watersheds in Kondapaka Mandal in terms of the MOU. It is stated that an amount of Rs.34,735 lakhs was released to the petitioner for implementing the project and the petitioner has submitted relevant progress reports and accounts every month to the authorities concerned. While so, the Project Director, DRDA, Medak at Sangareddy by letter dated 05-10-1998 informed the petitioner that even though an amount of Rs.34,735 lakhs has been released to the petitioner, it has not submitted any expenditure details and directed the petitioner to submit complete details of expenditure incurred by it before 10-10-1998. Accordingly, petitioner submitted the details of expenditure incurred for implementing the project. The Project Director issued a show cause notice dated 16-

10-1998 to the petitioner stating that as part of concurrent evaluation, the Multi Disciplinary Team (MDT) of DRDA, Medak, has evaluated the performance of the petitioner in respect of 14 watersheds and found gross discrepancies between the expenditure claimed to have been incurred and actually incurred, and called upon the petitioner to submit its explanation for the difference in the expenditure and also to show cause as to why the MOU should not be cancelled and difference amount should not be recovered from the petitioner. The petitioner submitted its explanation denying and disputing the allegations made in the show cause notice stating that it has already furnished the records with regard to the expenditure regularly along with the necessary documents and it has not committed any irregularities. The District Collector and Chairman of DRDA, Medak, without any further enquiry and without considering the material available on record, passed the impugned proceedings dated 06-11-1998 cancelling the MOU with immediate effect and directed the petitioner to remit an amount of Rs.28,44,375/-.

The grievance of the petitioner is that on receipt of the above proceedings, it remitted the unspent amount and requested the first respondent to reconsider the matter and also made a request to the Central Government to take appropriate action by issuing necessary directions to the first respondent, and accordingly the Central Government called for necessary report from the first respondent apart from calling the petitioner to submit necessary details. In spite of the same, respondents are bent upon to recover the amount from the petitioner without considering the matter and are resorting to take coercive steps. Hence, the petitioner has come up with the present writ petition praying to set aside the cancellation of MOU and the consequential proceedings.

In the counter-affidavit filed by the respondents 1 and 3, it is stated that the petitioner was appointed as Project Implementing Agency for implementation of Integrated Wastelands Development Programme under the Watershed Development Project in respect of 14 watersheds in Kondapaka Mandal. For implementing the said scheme, the first respondent released an amount of Rs.34,735 lakhs to the petitioner. It is stated that the petitioner failed to submit a single statement of account showing the expenditure incurred by it. In pursuance of the repeated reminders, the petitioner submitted a report on 30-07-1998 showing the expenditure incurred by it for the month of July, 1998 under four different heads without any details or break-up. It is further stated that the DRDA came to know from

different sources that the progress of work in the villages is not satisfactory and particularly, in view of the fact that huge amount of about Rs. 35 lakhs has been released to the petitioner, it instructed the MDT to inspect the performance of the petitioner and submit a factual report. As per the instructions, when the MDT called upon the petitioner to submit the accounts, the petitioner submitted a single page statement dated 24-08-1998 showing the expenditure out of the amounts released, and addressed a letter to DRDA requesting to grant one month time to submit the accounts. The MDT inspected all the works executed by the petitioner and calculated the expenditure under each component namely Civil Constructions, Training to Villagers, Community Organisations and Administrative charges by ascertaining the facts from the villagers and by taking the measurements of the Civil Works, in the presence of the petitioner. The petitioner neither furnished any particulars of expenditure nor produced any vouchers, estimates or bills except furnishing the figures of total amount spent under the statement dated 24-08-1998. As the petitioner failed to submit detailed accounts of expenditure supported by bills or vouchers having availed huge amount of Rs.34,735 lakhs, the MDT submitted its report dated 29-08-1998 estimating the expenditure on the basis of field verification of all the works executed by the petitioner and on comparison of the statement dated 24-08-1998 furnished by the petitioner, concluding that there are discrepancies. Then, DRDA issued a show cause notice dated 05-10-1998 to the petitioner calling upon it to submit the accounts. In pursuance thereof on 09-10-1998 petitioner submitted the monthly statements of accounts starting from December, 1997 to August, 1998, to the Project Director, DRDA, they also contained only bare figures of expenditure said to be incurred under each component without furnishing any material in support of the said statement. Petitioner also submitted an abstract of total expenditure up to 24-08-1998. On a scrutiny of the said statements, it is found that there are several discrepancies even among the statements furnished by the petitioner to MDT and DRDA. Hence, the show cause notice dated 16-10-1998 has been issued to the petitioner. As the explanation submitted by the petitioner was not satisfactory and as he failed to prove the expenditure, which he claimed to have been incurred, the MOU executed by the petitioner was cancelled by the impugned order.

Deputy Secretary of Ministry of Rural Development, filed counter-affidavit on behalf of the respondents 4 and 5 stating that petitioner has to work in full faith and confidence and under the directions of first and second respondents. Petitioner's

appointment to execute the said work is in the nature of an agency i.e. Project Implementing Agency on no profit-no loss basis for the benefit of rural masses. Once the first and second respondents lost confidence in the petitioner in the working of the project, the work has been cancelled according to the guidelines issued by the fourth respondent and there is no illegality in passing the impugned order and the present writ petition filed by the petitioner is not maintainable.

Admittedly, the programme under which the project work was undertaken and the MOU entered into by the petitioner is not a statutory contract. The petitioner has been selected as an implementing agency to execute the said work as per the guidelines, which is a non-profit organization. This Court cannot go into the questions with regard to the expenditure incurred by the petitioner for implementing the project, cancellation of MOU on the allegation of illegalities committed by the petitioner in due execution of the project and the respondents ordering for recovery of the amount, as all these are disputed questions of fact, which can be settled in the light of the terms and conditions of the MOU executed by the petitioner or the petitioner can approach the Civil Court to redress his grievances, if any regarding the same. In the absence of violation of any statutory rights or fundamental rights, the present writ petition cannot be entertained nor any finding can be given by this Court regarding the work executed by the petitioner and the amount spent thereon, by exercising jurisdiction under Article 226 of the Constitution of India.

In view of the same, the present writ petition is not maintainable and the same is accordingly dismissed. No order as to costs.

09-07-2004

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To

- 1 The Chairman ,Dist.Rural Development agency,
Medak at Sangareddy.
- 2 The Project Director, Dist.Rural Development Agency,
Medak at Sangareddy.
- 3 The Project Director,Drought Prone area Progreme,
Medak at Sangareddy.
- 4 The Secretary, Ministsry of Rural Areas and Employment
Department of Waste Lands Development,the Government of
India, NBO Buildings,G-Wing, Nariman Bhawan,
New Delhi-110 011.
- 5 The Member secretary,The National Weste Lands Development
Board,Govt. of India ,N.B.O. BUILDINGS,G-Wings, Nariman
Bhawan, New-Delhi-110 011.
- 6 Two C.Cs to the Government Pleader for Irrigation,
High Court Buildings, A.P., Hyderabad.
- 7 Two C.D copies.